

By C. J. [Signature]

S.B. No. 1164

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of certain administrative penalties by the Board of Polygraph Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Polygraph Examiners Act (Article 4413(29cc), Vernon's Texas Civil Statutes) is amended by adding Section 22A to read as follows:

Sec. 22A. ADMINISTRATIVE PENALTY. (a) If the board determines that a person regulated under this Act has violated this Act or a rule adopted under this Act in a manner that constitutes a ground for a license suspension under Section 19 of this Act, the board may assess a civil penalty against that person in lieu of the license suspension as provided by this section.

(b) The board may assess the civil penalty in an amount not to exceed \$5,000. In determining the amount of the penalty, the board shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the facts relating to that possible violation, the board concludes that a violation has occurred, the board shall issue a preliminary report that states the facts on which the conclusion is based, the fact that a civil penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the day on which the board issues the preliminary report, the board shall send a copy of the report to the person charged with the violation, together with

1 a statement of the right of the person to a hearing relating to the
2 alleged violation and the amount of the penalty.

3 (d) Not later than the 20th day after the day on which the
4 report is sent, the person charged either may make a written
5 request for a hearing or may remit the amount of the civil penalty
6 to the board. Failure either to request a hearing or to remit the
7 amount of the civil penalty within the time provided by this
8 subsection results in a waiver of a right to a hearing under this
9 Act. If the person charged requests a hearing, the hearing shall
10 be conducted in the manner provided by Section 22 of this Act. If
11 it is determined after the hearing that the person has committed
12 the alleged violation, the board shall give written notice to the
13 person of the findings established by the hearing and the amount of
14 the penalty and shall enter an order requiring the person to pay
15 the penalty.

16 (e) Not later than the 30th day after the day on which the
17 notice is received, the person charged shall pay the civil penalty
18 in full, or, if the person wishes to contest either the amount of
19 the penalty or the fact of the violation, forward the assessed
20 amount to the board for deposit in an escrow account. If, after
21 judicial review, it is determined that no violation occurred or
22 that the amount of the penalty should be reduced, the board shall
23 remit the appropriate amount to the person charged with the
24 violation not later than the 30th day after the day on which the
25 judicial determination becomes final.

26 (f) Failure to remit the amount of the civil penalty to the
27 board within the time provided by Subsection (e) of this section

1 results in a waiver of all legal rights to contest the violation or
2 the amount of the penalty.

3 (g) A civil penalty owed under this section may be recovered
4 in a civil action brought by the attorney general at the request of
5 the board.

6 (h) A penalty collected under this section shall be
7 deposited in the state treasury to the credit of the general
8 revenue fund.

9 SECTION 2. This Act takes effect September 1, 1985, and
10 applies only to an administrative penalty imposed on a violation
11 occurring on or after that date.

12 SECTION 3. The importance of this legislation and the
13 crowded condition of the calendars in both houses create an
14 emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several
16 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 29, 1985

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 1164
By: Caperton

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 1164 (relating to the imposition of certain administrative penalties by the Board of Polygraph Examiners) this office has determined the following:

The probable revenue gain from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Revenue Gain to the General Revenue Fund</u>
1986	\$16,500
1987	17,000
1988	17,500
1989	18,000
1990	18,500

Similar annual revenue gains would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.


Jim Oliver
Director

Source: Texas Polygraph Examiners Board; LBB Staff: JO, JH, PA

By.

Copied

AN ACT relating to the imposition of certain administrative penalties by the Board of Polygraph Examiners.

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MAR 12 1985

Filed with the Secretary of the Senate

Read, referred to Committee on JURISPRUDENCE

Reported favorably. _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed. _____

Senate and Constitutional Rules to permit consideration suspended by

{ unanimous consent.
{ _____ yeas, _____ nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____yeas, _____nays.

Read second time and { ordered engrossed.
passed to third reading.

Caption ordered amended to conform to body of bill.

Senate and Constitutional 3-Day Rules suspended by vote of _____yeas, _____nays to place bill on third reading and final passage.

Read third time and passed by { a viva-voce vote.
_____ yeas, _____ nays.

OTHER ACTION:

Secretary of the Senate

Engrossed

Sent to House

ENGROSSING CLERK

Received from the Senate

— Read first time and referred to Committee on _____

— Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

– Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays

_____ Present, not voting.

- Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas _____ nays _____ present not voting.

**- Read third time (amended); finally passed (failed) by a
(Non-Record Vote) Record Vote of _____ yeas _____ nays
_____ present not voting.**

- Caption ordered amended to conform to body of bill.

Returned to Senate.

Chief Clerk of the House